

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2001-279-C - ORDER NO. 2001-929
SEPTEMBER 12, 2001

IN RE: Application of Hargray, Inc. for a Certificate)	ORDER
of Public Convenience and Necessity to)	APPROVING
Operate as a Reseller of Interexchange)	APPLICATION
Telecommunications Services within the State)	
of South Carolina and Request for Alternative)	
Regulation.)	

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Hargray, Inc. ("Hargray" or "the Company") for authority to operate as a reseller of interexchange telecommunications services within the State of South Carolina. The Application was filed pursuant to S.C. Code Ann. §58-9-280 and the Rules and Regulations of the Commission. Additionally, the Company requests that its business services, operator services, and consumer calling card services be regulated in a manner comparable to that approved for AT&T in Commission Docket No. 95-661-C.

By letter, the Commission's Executive Director instructed Hargray to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. Hargray complied with this instruction and provided the Commission

with proof of publication of the Notice of Filing. No Petitions to Intervene were received.

On August 15, 2001, Hargray filed its Motion for Expedited Review of its Application with the Commission. In support of its Application, Hargray submitted the verified testimony of Todd A. Pence, Assistant Vice President/General Manager of Hargray Wireless, LLC and Hargray. The purpose of Pence's testimony was to provide evidence regarding the financial, technical, and managerial ability of Hargray to provide resold telecommunications services on a local exchange resale basis in South Carolina, to describe the services the Company proposes to provide, and to describe the geographic areas that Hargray seeks to serve.

The Commission in its regularly scheduled Commission Meeting on August 21, 2001, considered Hargray's Motion For Expedited Review. The Commission recognizes that Hargray was issued a certificate of public convenience and necessity authorizing Hargray to provide local exchange, exchange access, and ancillary services to customers located in those areas of the State of South Carolina being served by BellSouth Telecommunications, Inc., Verizon South, Inc. and United Telephone Company of the Carolinas, Inc. As no opposition to Hargray's Motion For Expedited Review was received, the Commission will grant Hargray's Motion For Expedited Review and will consider Hargray's Application in the Commission Meeting with a court reporter present. The Commission's discussion and deliberation in the presence of a court reporter and with verified testimony of the witness will be deemed a hearing for the purposes of consideration of the Application.

S.C. Code Ann. §58-9-280(A) (Supp. 2000) provides that “no telephone utility shall begin the construction or operation of any telephone utility plant or system, or of any extension thereof, ...without first obtaining from the [C]ommission a certificate that public convenience and necessity require or will require such construction or operation.” Mr. Pence’s testimony reveals that Hargray is incorporated in the State of South Carolina as a Statutory Close Corporation, and its parent and sole shareholder is Hargray Communications Group, Inc. By Order No. 2001-129 in Docket No. 2000-520-C, dated February 8, 2001, Hargray was granted a Certificate of Public Convenience and Necessity authorizing the Company to provide local exchange, exchange access, and ancillary services to customers located in those areas of the State of South Carolina being served by BellSouth Telecommunications, Inc., Verizon South, and United Telephone Company of the Carolinas, Inc. Hargray is currently requesting authority from the Commission to operate as a reseller of interexchange telecommunications services from points of origin within the State of South Carolina. According to the record, Hargray will not construct any facilities to implement the authority sought in the instant docket. Instead the proposed services will be furnished using the transmission facilities of other certificated carriers to the extent permitted by the Commission and where consistent with the applicable tariff regulations.

Mr. Pence testified that Hargray has sufficient technical and managerial resources to provide the services for which it seeks authority. The record reveals that Hargray has directors and officers who have extensive experience in the telecommunications industry, including a substantial base of operational, technical, and financial experience as it relates

to operating local exchange companies and other telecommunications operations in South Carolina. James W. McDaniel is the Company's Vice President. Mr. McDaniel has twenty-eight years experience in the telecommunications industry serving in management positions with Farmers Telephone Cooperative, Inc., Bluffton Telephone Company, Inc., Hargray Telephone Company, Inc. and Hargray Communications Group, Inc. Mr. Pence has thirteen years experience in the communications industry serving in engineering and general management positions with Central Telephone Company, Sprint Cellular and Sprint PCS. Hargray's other key personnel include Aggrey Thurairatnam, Director of Marketing (who has thirteen years experience in the communications industry serving in marketing and general management positions with Sprint Cellular); Marc Halperin, Operations Manager (who has fifteen years experience in the communications industry serving in sales and general management positions with Spring Cellular); Phil Jones, Network Operations Manager (who has fourteen years experience in the telecommunications industry serving in technical operations and supervision with Hargray Telephone Company); Mike Flematti, Area Sales Manager (who has seven years experience in the communications industry in customer service management for Sprint Cellular); and Ed Heuck, Technical Operations Manager (who has twenty-six years experience in the communications industry serving in engineering and technical operations management for Summit Communications and Adelphia Cablevision).

Mr. Pence also testified that Hargray Communications Group, Inc. and its subsidiaries are financially-sound. The testimony also reveals that Hargray Communications Group, Inc. has operated telecommunications operations in South

Carolina for many years and has substantial plant and facilities in the State of South Carolina. In addition, according to the verified testimony, Hargray's application will serve the public interest by providing consumers with a greater choice of long distance services.

FINDINGS OF FACT

1. The Commission finds Hargray is organized as a corporation under the laws of the State of South Carolina.
2. Hargray was granted a Certificate of Public Convenience and Necessity to provide local exchange, exchange access, and ancillary services to customers located in those areas being served by BellSouth Telecommunications, Inc., Verizon South, Inc., and United Telephone Company of the Carolinas, Inc. by Order No. 2001-129 in Docket No. 2000-520-C, dated February 8, 2001.
3. The Commission finds Hargray has the technical, financial, and managerial resources sufficient to provide the services requested. S.C. Code Ann. §58-9-280(B)(1) (Supp. 2000).

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Hargray to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through its own facilities and through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications

Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission.

2. The Commission adopts a rate design for Hargray for its resale of residential services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

3. Hargray shall not adjust its residential rates below the approved maximum level without notice to the Commission and to the public. Hargray shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. Section 58-9-540 (Supp. 2000).

4. With respect to business service offerings, credit card services, operator services, and customer network offerings, tariff filings will be presumed valid upon

filing. If the Commission institutes an investigation of a particular filing within seven (7) days, then the tariff filing will be suspended until further Order of the Commission. Any relaxation in the future reporting requirements that may be adopted for AT&T shall apply to Hargray also.

5. Hargray is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers should be treated similarly to facilities-based interexchange carriers.

6. With regard to the Company's resale of service, an end user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

7. Hargray shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Hargray changes underlying carriers, it shall notify the Commission in writing.

8. With regard to the origination and termination of toll calls within the same LATA, Hargray shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the Federal Communications Commission, pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209).

9. Hargray shall file surveillance reports on a calendar or fiscal year basis with the Commission as required by Order No. 88-178 in Docket No. 87-483-C. The

proper form for these reports can be found at the Commission's website at www.psc.state.sc.us/forms. The title of the forms which the Company shall utilize to file annual surveillance reports with the Commission is "Annual Information on South Carolina Operations for Interexchange Companies and AOS".

10. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

Hargray shall file the names, addresses, and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The Company shall utilize the "Authorized Utility Representative Information" form, which can be located at the Commission's website at www.psc.state.sc.us/forms, to file the names of these representatives with the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

11. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)